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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/764,099

01/23/2004

John Wankmueller

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EXAMINER

LE, UYEN CHAU N

ART UNIT

PAPER NUMBER

2876

MAIL DATE

DELIVERY MODE

06/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/764,099	Applicant(s) WANKMUELLER, JOHN	
	Examiner Uyen-Chau N. Le	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-11,14-19 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,14-19 and 22-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prelim. Amdt/Amendment

1. Receipt is acknowledged of the Amendment filed 12 September 2001.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6-11, 14-19 and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm (US 6,266,640) in view of Woo (US 20030154139 A1).

Re claims 1-3, 6-11, 14-19 and 22-25: Fromm discloses a method for conducting a secure transaction using voice authentication wherein payment is processed from a payment account comprising: providing a database comprising at least a first voice sample associated with a holder of the payment account (col. 2, line 66 through col. 3, line 7); providing payment account information associated with the payment account, the payment account information to be used for conducting the transaction; transmitting an authentication request including the payment account information to an access control server (i.e., voice verification unit 103) (col. 3, lines 8-24); triggering automatically a telephone call to the holder of the payment account; generating a second voice sample by sampling one or more voice characteristics of the holder of the payment account (col. 3, lines 25-32); and using voice authentication technology to compare the first voice sample

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to the second voice sample to determine whether the transaction is authorized by the holder of the payment account (col. 3, lines 47-52); transmitting an authentication response responsive to the authentication request (col. 3, lines 52-53 and col. 4, lines 34-38); processing payment from the payment account to complete the transaction as a function of the authentication response (col. 4, lines 53+); wherein the payment account information is provided via telephone (col. 4, lines 42+); wherein the payment account information is provided via computer network (col. 3, lines 33-47); wherein the authentication request includes at least a device category data field, an authentication request channel data field, a cardholder phone number data field and a voice channel transfer method data field (col. 3, lines 16-32); determining if the holder participates in voice authentication services (col. 3, lines 16-24); prompting the holder for authorization to complete the transaction (col. 3, lines 25-32).

Fromm is silent with respect to payment account information associated with the payment account is provided via telephone and the authentication request and the authentication response are formatted according to the 3-D Secure authentication protocol.

Woo teaches a method for conducting a mobile commerce transaction between a customer and a merchant, wherein payment request may be initiated by the wireless device 230, which may include cellular telephones and PDAs (fig. 2; paragraphs [0025]+), wherein the payment/personal account number (PAN) is authenticated utilizing 3-D secure (fig. 3; paragraphs [0030-0034]).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the 3D secure protocol system of Woo into the

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system as taught by Fromm in order to provide Fromm with a more secure system with the capability of verifying the card holder ownership during an electronic commerce purchase transaction, preventing the credit card from fraudulent used by an unauthorized person in the event of lost/stolen. Furthermore, such modification would provide the customer with the flexibility in selecting a desired method of shopping and/or paying for the purchased items/services (i.e., via the wireless device 230, via the Internet, WAP, or through in-store kiosks).

Response to Arguments

4. Applicant's arguments filed 06/18/2007 have been fully considered but they are not persuasive.

5. In response to applicant's arguments against the references individually (p. 10, last paragraph), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6. In response to the Applicant's argument with respect to "... As the Examiner agrees at page 4 of the Office Action, Woo teaches a method for conducting an electronic commerce transaction, but Woo does not disclose or suggest providing payment account information via a telephone call..." (p. 11, last paragraph), the Examiner respectfully regrets for the typographical error (i.e., a mobile commerce transaction NOT an electronic commerce transaction). However, as disclosed in Woo, the wireless device 230 includes cellular telephones (paragraph [0025]), in which case the payment account

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information is inherently provided via a cellular telephone call and is sequentially validated by 3-D secure (paragraphs [0030] +). Accordingly, the claimed limitation, given the broadest reasonable interpretation, Fromm in view of Woo meets the claimed invention (see the rejection above).

7. In response to the Applicant's argument with respect to "... Fromm and Woo, either alone or in combination, do not disclose or suggest providing payment account information associated with said payment account via a telephone call..." (p 12, 1st paragraph), the Examiner respectfully disagrees. As discussed above, Woo discloses the wireless device 230 includes cellular telephones (paragraph [0025]), in which case the payment account information is inherently provided via a cellular telephone call and is sequentially validated by 3-D secure (paragraphs [0030] +). Accordingly, the claimed limitation, given the broadest reasonable interpretation, Fromm in view of Woo meets the claimed invention (see the rejection above).

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the modification of the 3-D secure protocol to include the telephone number associated with the payment account such that voice authentication can take place (p. 12, 2nd paragraph)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

For the reasons stated above, the Examiner believes that a proper prima-facie case of obviousness has been established. Therefore, the Examiner has made this Office Action final.

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Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on M-F 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

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Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Uyen-Chau N. Le". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Uyen-Chau N. Le
Primary Examiner
Art Unit 2876

June 21, 2007